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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 31 January 1992, at 10 a.m.

Chairman:	Mr. SOLT	(Hungary)
later:	Mr. WALTER	(Australia)

CONTENTS

Question of the violation of human rights in the occupied Arab territories, including Palestine (continued)

The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation (continued)

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GE.92-10318/4189B

CONTENTS (continued)

Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts

Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist regime in southern Africa

Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination

The meeting was called to order at 10.05 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (A/46/65, 286 and 522; E/CN.4/1992/6, 7 and 66)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1992/11 and 12; E/CN.4/1991/14)

1. Mr. RI (Observer for the Democratic People's Republic of Korea) said that respect for the right to self-determination was a prerequisite for the enjoyment of all basic human rights. Yet in certain regions, that right continued to be trampled upon by foreign military occupation or threatened by interference from outside armed forces.

2. Spectacular progress had been made in recent years in achieving implementation of the right to self-determination. Following the independence of the people of Namibia, Cambodia had reached a national agreement, and the long of civil war in El Salvador had come to an end.

3. Thanks to the efforts of the international community, major changes had taken place in South Africa, but it must remain vigilant until all racist elements in that country had been eliminated.

4. The Commission must find much more effective means to ensure the right to self-determination of the Palestinian people. His delegation was concerned that direct negotiations between Israel and the representatives of the State of Palestine had still not begun. It was to be hoped that the current session of the Commission would help to establish direct contacts between Palestine and Israel.

5. The Korean nation was still not in a position to exercise its right to self-determination. In December 1991, North and South Korea had signed an accord on reconciliation, non-aggression, cooperation and trade and also agreed on a joint declaration on the denuclearization of the Korean peninsula, thereby creating a foundation for reunification and the exercise of the right to self-determination of the entire Korean people. However, the presence of American troops in South Korea, which for the past 47 years had constituted an obstacle to the exercise of that right still persisted.

6. For many years, the United States had been proclaiming that foreign occupation was the most flagrant denial of the right to self-determination. His delegation concurred wholeheartedly, but it also wondered whether the United States troops stationed in South Korea did not constitute a foreign army that violated the right to self-determination of the Korean nation and why the United States was engaging in military interference, applying political pressure and imposing economic blockades on small, independent States.

7. The United States had recently withdrawn its nuclear weapons from South Korea, and high-level Korean-United States negotiations had begun for the first time on the future of the two countries, developments that had been

applauded by the international community. The only solution to the problem was through negotiations. The United States must contribute to the reunification of Korea by withdrawing its troops and by discontinuing the military manoeuvres that it had conducted for the past 16 years.

8. It was to be hoped that the United States would make its contribution to finding a peaceful solution to the Korean question. The bigger the country, the greater its obligation to remain faithful to the principles of justice and equality.

9. Mr. JEBARI (Observer for Morocco) said that 1991 had ushered in a new era of cooperation under the banner of the United Nations. A golden opportunity had presented itself to reduce tensions throughout the world. The year 1992 brought hope that many peoples would be able to exercise their right to self-determination. It was therefore no longer justified that certain United Nations resolutions still failed to be implemented; those concerning the question of Palestine were a case in point. The right to self-determination of the Palestinian people continued to be denied by Israel. As a result, one part of the Palestinian people lived as prisoners in their own homeland, and the other part had been dispersed outside Palestine.

10. At the Arab-Israeli negotiations currently under way, the Arab side had spared no effort to reach a just, lasting and comprehensive settlement on the basis of the relevant United Nations resolutions that would safeguard the right of all the peoples in the region to live in peace. But Israel had rejected all Arab initiatives, ruled out any withdrawal from the occupied territories, refused to recognize the legitimate rights of the Palestinians and was willing to talk only about its own security fears and its demands for recognition by the Arab States.

11. It was unfortunate that Israel had not created a climate in the occupied territories conducive to promoting the search for a just peace. On the contrary, its delaying tactics were aimed at frustrating the negotiations. His Government supported the right of the Palestinian people to self-determination and to the establishment of an independent State on its national soil, with Jerusalem as its capital, under the leadership of the Palestine Liberation Organization, the sole legitimate representative of the Palestinian people.

12. Morocco had acted as host for the fourteenth session of the Committee on Jerusalem (Al-Quds), held on 23 January 1992, which had adopted a number of resolutions supporting the efforts of the peace conference. In his opening statement at the meeting, the Chairman, His Majesty King Hassan II of Morocco, had stressed that the problem of Jerusalem was one of concern to all Muslims and Christians, everywhere. The Committee had underscored that Jerusalem was an indivisible part of the Palestinian territory occupied since 1967 and rejected any call for excluding Jerusalem from the peace negotiations. Returning the holy city of Jerusalem to Palestinian sovereignty was a principal condition for restoring peace in the Middle East.

13. Concerning South Africa, his delegation was heartened by the positive democratic developments there, but the South African people would not be able to exercise its right to self-determination until apartheid had been

eradicated, free elections held with the participation of all political parties and a transitional Government of national unity established. Significant progress must also be made in the negotiations begun in 1991 on drawing up a new constitution. The dialogue initiated on the future of South Africa showed the intention of all sides to work towards achieving change, and all Governments must contribute to that effort.

14. Morocco was pleased at the signing in Portugal of the accords between the Government of Angola and the opposition to end a long period of instability and bloodshed. That would allow Angola to rebuild a democratic society based on the fundamental rights of its citizens.

15. His Government welcomed the signing of the Paris Peace Agreement putting an end to the war in Cambodia. Recent information on cease-fire violations, however, gave cause for concern, since they would hamper the United Nations mission to implement the peace plan. His Government was convinced, however, that the Cambodian people had taken a first step towards exercising its right to self-determination and choosing its political system, which required the holding of democratic elections without delay.

16. The situation in Afghanistan continued to have a negative impact on human rights in that country and on its political, economic and social stability. Despite the 1988 peace accords and the departure of all foreign troops, the fighting continued. The parties concerned must attempt to overcome their differences and reach a settlement so that Afghanistan, too, could determine its future and live in peace under a system of its own choice.

17. His delegation welcomed the signing earlier in the month of a peace treaty between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN) on the basis of an agreement reached in 1990 at Geneva. It was to be hoped that that treaty would put an end to the violence in that country.

18. Mr. ELKARIB (Observer for the Sudan) said that the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/46/522) and numerous reports by non-governmental organizations had pointed to the terrible human rights situation in the occupied Arab territories, brought about by repressive Israeli practices in violation of the Fourth Geneva Convention and the relevant United Nations resolutions.

19. Many Palestinians had been killed or wounded by the Israeli army and settlers. Discriminatory economic measures had been implemented, houses demolished, property confiscated and thousands of people held in administrative detention without charges or trial. Restrictions were placed on freedom of movement, Palestinians had been expelled from their own homeland, and there had been innumerable cases of torture. His Government condemned all those practices, which were aimed at sabotaging the Middle East peace initiatives.

20. The international community had an obligation to protect the Palestinian people against Israeli aggression. There would be no peace in the Middle East without a just and lasting settlement that included the creation of a

Palestinian State under the leadership of the Palestine Liberation Organization. The international community must assume its responsibility toward the Palestinians and the Arabs in the occupied territories if it was serious about implementing human rights.

21. Mr. MAHMOUD (Observer for the United Arab Emirates) said that the findings of the recent reports on the human rights situation in the occupied Arab territories (listed in document E/CN.4/1992/7) were appalling. Israel refused to implement the most basic human rights: the right to life, a cultural identity, a homeland, self-determination and political, economic, social and cultural rights. The reports documented widespread killings by the Israeli authorities, torture, arbitrary administrative detention, the demolition of houses, expulsions, the confiscation of property, the damaging of the Palestinian economy and the continuation of the settlement policy. The unarmed uprising against Israel was the expression of the Palestinian people's desire to exercise its right to self-determination and to establish an independent State that could live in peace and security with the other peoples of the region.

22. The recent peace initiative had not borne fruit because Israel was obstructing progress by pursuing its settlement policy and its violation of the sanctity of the holy city of Jerusalem. Israel's annexation of the Syrian Golan had increased the gravity of the situation, and its refusal to withdraw from Lebanon prevented stability from returning to that country.

23. The emerging new international order, based on justice, international law and respect for human rights, had borne its first fruit with the liberation of Kuwait and must provide the necessary safeguards and guarantees for all States to live in peace and security. The new international order would not endure if Israel refused to respect its international obligations under the relevant United Nations resolutions and the Fourth Geneva Convention.

24. Mr. AMNEUS (Observer for Sweden) said that the unsatisfactory human rights situation in the territories occupied by Israel was of grave concern to his Government, which deplored not only the violations of human rights by the authorities but also the acts of violence committed by groups and individuals. The many incidents of horrible terrorist attacks and killings, including considerable intra-Palestinian violence with about 500 people murdered in the past four years, underlined the urgent need to find a basis for regional peace.

25. During the past year, the world had witnessed repeated violations by Israel of the International Covenants on Human Rights as well as of the Fourth Geneva Convention, the most recent example being the decision to deport 12 Palestinians from the West Bank, a decision unanimously condemned by the Security Council.

26. His Government welcomed the recent ratifications by Israel of the two International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of

Discrimination against Women. It expected Israel to live up to those international commitments also when it came to the inhabitants of the occupied territories.

27. The Israeli settlement policy violated the Fourth Geneva Convention and increased tension in an already volatile situation. To extend settlements further during an ongoing peace process was not conducive to finding solutions to the conflict.

28. Continued Palestinian protests against the occupation were often met by excessive reactions leading to killings, beatings and arbitrary arrests. That was as unacceptable as was the lethal violence of Palestinians against Palestinians and the attacks on Israeli citizens. Positive measures must be taken to break the vicious circle of violence.

29. The practice of administrative detention without any independent judicial examination was unacceptable. The same was true with regard to subjecting civilians to unfair trials before military courts. Even more alarming were the numerous reports of the torture of Palestinian prisoners.

30. Israel continued to employ measures of collective punishment that were in clear violation of the Fourth Geneva Convention. Curfews had frequently been proclaimed confining people to their homes for weeks at a time and rendering normal life impossible. It was especially disturbing that children had been deprived of their schooling either because of the curfews or simply because the schools were closed.

31. A solution to the tense situation in the occupied territories could be found only through a comprehensive settlement. His Government sincerely hoped that the ongoing peace process would bear fruit and lead to an agreement. Pending such an agreement, all forms of violence and abuses of human rights must be avoided and confidence-building measures implemented, particularly a freeze on settlements in the occupied territories. His delegation called on the Israeli Government to show the world its genuine wish for peace by fully respecting the human rights of the Palestinian people.

32. Mr. ERKMENOGLU (Observer for Turkey) said, with respect to agenda item 4, that the Arab-Israeli conflict had been of deep concern to his country because of both its geographical proximity to the Middle East region and its historical and cultural ties with that part of the world.

33. It was a well-known fact that the question of Palestine was the crux of the matter in the persistent Arab-Israeli conflict. It was a tragic and complex problem which had faced the international community since the establishment of the United Nations. It was not merely a question of refugees or a matter of human rights violations, but a very serious issue which directly affected the state of affairs in the world. Peace could hardly be achieved in the Middle East as long as the problem of Palestine remained unresolved.

34. His delegation was fully aware of the historical persecutions of the Jews which had culminated in the holocaust. The year 1992 marked the five hundredth anniversary of the expulsion of the Jews from Spain and the

fiftieth anniversary of the German final solution decision. Turkey, which had tried with its modest means to alleviate the immense suffering of the Jews on both those occasions, earnestly hoped that that human tragedy had ended once and for all, but that could not be ensured unless and until Israel withdrew from the territories it had occupied since 1967 and fully recognized the inalienable rights of the Palestinians.

35. The year 1991 had marked the beginning of a fresh attempt to solve the conflict. The commendable efforts of the United States, in close cooperation with the Russian Federation, had led to the Madrid Middle-East Peace Conference, where, for the first time, the parties to the conflict had gathered round the negotiation table. Despite all the difficulties, the peace process had continued in Washington and in Moscow. His delegation believed that all the parties to the conflict should exercise restraint during the process in order to reach an early settlement.

36. A major impediment to the peace efforts, however, was the Israeli authorities' policy of establishing settlements in the occupied territories and the use of measures to supress the intifada which were in clear violation of the Fourth Geneva Convention. Israel should halt the establishment of settlements and accept the de jure applicability of the Fourth Geneva Convention to the occupied territories, in conformity with Security Council resolutions 673 and 681 (1990), so as to create an atmosphere conducive to the peace process.

37. There were 2.5 million Palestinian refugees registered with UNWRA who had been in refugee camps since 1948. It was essential that a just solution to the Middle East conflict should put an end to that human suffering, by the establishment of an equitable, lasting and comprehensive peace based on Security Council resolutions 242 (1967) and 338 (1973).

38. With regard to agenda item 9, he said that the right to self-determination was a basic rule of international law and an essential prerequisite for the enjoyment of human rights. Denial of that right to the peoples entitled to it under the Charter of the United Nations and General Assembly resolution 2625 (XXV) not only constituted a violation of human rights but also threatened the maintenance of international peace and security.

39. However, self-determination was a right that belonged to peoples but not to "minorities" within a nation. The population of a given nation might include people belonging to different ethnic, racial, religious or linguistic groups. That was the case of almost every modern State. In democratic countries, all citizens were entitled to enjoy human rights on an equal footing through the election of the members of the executive and legislative branches by universal suffrage and under the guarantees of an independent judiciary. Under the democratic way of life, minorities were entitled to take an effective part in the political process but they were not entitled to exercise the right to self-determination and violate the territorial integrity and political unity of the nation State.

40. His Government believed that, in States established by two politically equal communities or peoples having the status of corporate political bodies, each community was entitled to determine its own future by exercising its right to self-determination, regardless of its numerical size. Indeed, in cases where the State had been established through the application of the right of separate self-determination by such peoples or political bodies, that right could be invoked where the common State or partnership ceased to conduct itself in accordance with the principles of human rights and where no Government existed representing all the people belonging to the territory without distinction as to race, creed or colour.

41. It was therefore imperative to take such sui generis situations into account. Where two founder communities, as separate peoples, had joined together to form a bicommunal State by the separate and voluntary exercise of their free will and where such exercise and the consent of the two founding parties had been inscribed in international treaties and in the Constitution of the State, one of the communities could not exclude the other from the political life of the State and deny it its vested rights, including the right to self-determination.

42. Mr. Walker (Australia) took the Chair.

43. Ms. FAUCHERE (World Confederation of Labour) said that her organization regarded the Middle East Peace Conference as an instrument that could ensure the security of all States in the region, the withdrawal by Israel from the territories of Lebanon and Syria occupied by it and the self-determination of the Palestinian people.

44. However, the situation of the Palestinians in the occupied Arab territories was by no means improving. The Palestinians were placed in enclaves too small to hold them all and the Israeli Government was accelerating the establishment of settlements there. It was estimated that 52 per cent of the land of the West Bank, including east Jerusalem, had been seized by the Israeli authorities since 1967 and more than 40 per cent of the Gaza Strip.

45. A recent report by the International Labour Organisation stressed that the Israeli Government imposed its policies and economic priorities in the territories by using the army whenever it was deemed necessary. The Gulf crisis and the massive influx of immigrants had considerably reduced the number of jobs available for the Palestinians and a third of the economically active Palestinian population was unemployed.

46. Operations were carried out during which the Israeli authorities, with the help of the army, destroyed homes and razed olive-tree and fruit-tree plantations in order to confiscate the land. Summary arrests, administrative detention, confiscation of the property of trade unions and harassment of their leaders were continuing. Arab workers were humiliated at their places of work and obliged to accept that situation in order to earn a living, some of them being forced to wear a distinctive badge.

47. The Israeli authorities had not relaxed their "iron fist" policy aimed at weakening the trade unions. Many trade-unionists had been arrested,

imprisoned and detained without charge and were the victims of violence carried out daily by the occupying authorities. Under the pretext of ensuring security and public order, the legitimate activities of Palestinian trade unions were restricted.

48. Her organization called for the strict application of all the relevant United Nations resolutions and supported the right of the Palestinian people to establish an independent nation State. To that end, it called for the withdrawal of Israeli forces from the occupied Arab territories and an immediate halt to the establishment of settlements there.

49. Throughout its history, her organization had always endorsed the right of peoples to self-determination. In that connection, she referred to the many peoples such as the Kurds, the Albanians in Kosovo, and the Tibetans, who were being denied that right and called on the Commission to do everything in its power to enable those peoples to assert that right and to live in peace on their own lands.

50. Ms. GRAF (International League for the Rights and the Liberation of Peoples) said that, while all peoples were entitled to self-determination, that right was not necessarily to be identified with the creation of new States and new borders. The secession of Croatia and Slovenia from Yugoslavia had not resolved all the problems of peaceful coexistence between the peoples of the region and might well give rise to other claims of a nationalist nature.

51. What Serbia was demanding for the Serbs in Croatia, it was simultaneously refusing to the ethnic Albanians in Kosovo. It had adopted a new Constitution, unilaterally abolishing the autonomy of the province and had armed the Serbian minority there. The Kosovars had resisted peacefully thus far, but the result had been exile, arrests, torture and police violence during demonstrations. The crisis in Yugoslavia, which had begun in Kosovo as a result of the ethnic Albanians' dissatisfaction with the discrimination practised against them, could not be resolved without the participation of the more than 3 million ethnic Albanians in Yugoslavia.

52. The right of Western Sahara to self-determination had been recognized on numerous occasions but, prior to the resolution adopted by the Security Council on 29 April 1991, no specific measure had been taken to ensure that that right could be freely exercised. That resolution had provided for the holding of a referendum on self-determination, scheduled for Janaury 1992, a referendum which had not been held. Serious events had blocked the implementation of the programme set out by the Security Council. The United Nations personnel had been unable to spread out over the territory and the Special Representative had not been able to set up his office in El Ayoun, as scheduled. There had been many violations of the cease-fire and all meetings and movements were closely watched by Moroccan forces. Moreover, there had been a series of arrests which had increased the climate of intimidation and the lack of security.

53. In view of the seriousness of the current deadlock, it was essential that the international community demand that the peace plan be respected. The Security Council should adopt a resolute attitude and take firm decisions in order to avoid any delaying tactics or fraud during the referendum.

54. The Indonesian authorities had done everything possible, since 1975, to try to justify their presence in East Timor and to represent the annexation of the Portuguese colony as a progressive step in the history of the territory. However, that propaganda campaign had been damaged by the massacre that had taken place at the Santa Cruz cemetery in November 1991. Her organization had been shocked by the cool attitude of the international community despite the courageous stand taken by the Portuguese Government, the declarations of the European Ministers for Foreign Affairs and the resolution passed by the Western European Union.

55. The international community must take every possible step to alleviate the suffering of the people of Timor, by supporting their right to self-determination and the idea of a referendum under United Nations control, by calling upon the Indonesian Government to cease its violations of human rights in the territory and to withdraw its occupation troops; and by sending a United Nations commission to Dili to look into the massacres of November 1991.

56. Mr. TEITELBAUM (American Association of Jurists) said that the massacre perpetrated by Indonesian troops in Dili on 12 December 1991 was of direct concern to the United Nations in general and the Commission in particular, since the Commission's Special Rapporteur on torture had been in Dili on the day of the massacre. He had taken no action and made no statement, despite the fact that, in addition to the persons who had been killed, dozens of others had been detained and had undoubtedly been maltreated and tortured.

57. An example of the way in which a representative of the United Nations should behave in such circumstances had been given by Professor Tomuschat in Guatemala on 10 October 1991 after he had witnessed the machine-gunning of the civilian population of the town of Caba by military helicopters. That same day, he had drawn up a detailed communiqué, together with the Procurator for Human Rights of Guatemala, in which they had said, inter alia, that the population of Caba was composed of civilians who were completely without defence and that the action was quite unacceptable.

58. His organization deeply deplored the attitude adopted by the Special Rapporteur on torture in respect of the massacre and repression in Dili, which seriously affected the credibility of the United Nations in the eyes of world public opinion.

59. The United Nations had undertaken to ensure that a plebiscite was carried out under proper conditions in Western Sahara. However, the Government of Morocco was placing obstacles of every kind in its way and ignoring the agreements contained in the peace plan. The United Nations could not risk harming its image by overseeing a fraudulent plebiscite and it would be appropriate for the Commission to call on the Government of Morocco to cease hampering the United Nations mission and to respect scrupulously the peace plan agreement.

60. Mr. TABIBI (World Muslim Congress) said that the right to self-determination was one of the most sacred rights of mankind, which had been enshrined not only in the scriptures but also in many treaties concluded by the international community.

61. It was a matter for deep regret that Muslims were frequently subjected to persecution and repression even in countries whose culture and history were predominantly Islamic. The situation of Muslims in Kashmir was particularly unfortunate, due to a continuing reluctance on the part of the Government of India to comply with its obligations under the Independence Act of 1947.

62. No progress could be observed in respect of the Palestinian people's right to self-determination. Palestinians had been uprooted and left without food, basic health facilities, shelter and the opportunity of gaining a livelihood.

63. Such problems were not confined to Kashmir and the Middle East: mention should also be made of the situation in Afghanistan. In every instance, however, the prime requirement was concerted action by the international community to implement the resolutions adopted by the Security Council and the General Assembly.

64. Mr. PONRAJAH (International Educational Development, Inc.) said that his organization had closely followed the events of the previous year, in which a number of new States had emerged as a result of the successful efforts of their peoples to achieve self-determination. Recently, a number of Governments had recognized the right of the peoples of Croatia and Slovenia to independence and the full realization of self-determination. Western Sahara was also pursuing the same path. The right to self-determination was, however, a universal one and could not be confined to certain peoples or races.

65. Despite the resolutions adopted by the United Nations over the years affirming that self-determination was an expression of the concept of human dignity, the international community had been reluctant to give the principle general application due to the hostility of the many Governments which feared for their territorial integrity.

66. Another problem for the international community had been how to define the term "peoples". Most Governments wished to define it in a way that eliminated any application of self-determination to their territory. However, guidance had been provided by the International Court of Justice, which in the case of Western Sahara had identified the elements of the concept of a "people" and linked it to a relationship with an identifiable territory.

67. The Tamils of the northern and eastern parts of the island of Sri Lanka clearly met that definition of "a people" and their relationship to their territory had been specifically recognized by the Sri Lankan Government. They had their own language and a religious and cultural identity distinct from the Sinhalese majority, and were united by a passionate desire for autonomy. The Commission had heard compelling testimony on the human rights violations against the Tamil people for some years and, in 1987, had taken note of the evidence of human rights violations. Nevertheless, it had for the most part remained silent in the face of the many tragic events that had taken place in Sri Lanka.

68. The military force defending the rights of the Tamil population, the Liberation Tigers of Tamil Elam, had called once again for a cease-fire and for negotiations in order to resolve the issue. Unfortunately, it appeared

that the Government of Sri Lanka intended to pursue a military victory against the Tamil people and their armed forces. He hoped that the Commission would pay no less attention to that community's demands than it did to those of other communities whose claims were currently recognized by the international community.

69. Mr. GONZALES (International Indian Treaty Council) said that the year 1992 marked the five hundredth anniversary of the first murder of an indigenous inhabitant of the North American continent at the hands of Christopher Columbus and his band of mercenaries, thus initiating the period of colonization, terrorism and genocide.

70. The aim of his organization was to promote the recognition, in such bodies as the Commission on Human Rights, of indigenous sovereign nations, regardless of the size of their populations. Colonial Governments in Indian lands had intentionally divided those populations by land-demarcation, massive population transfer and cultural ethnocide. Columbus himself, the "discoverer" of the Americas, must be held responsible for the deaths of over 3 million people in the brief period of four years.

71. One argument used to support the claim that the indigenous peoples of North America were not native to the continent was that they had originated from across the Bering Strait: the absence of a collective myth regarding such a migration in the oral traditions of the indigenous peoples gave the lie to that assertion, as did the recent discovery of human remains dating from 36,000 to 42,000 years previously in southern New Mexico.

72. In conclusion, his delegation called on the Commission to consider the possibility of convening a conference in 1993, under United Nations auspices, to discuss the question of self-determination in the context of the activities scheduled for the International Year for the World's Indigenous People.

73. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) said that, although the plight of the people of East Timor, had been repeatedly brought to the attention of the Security Council, the occupation of East Timor and the oppressive activities of Indonesian troops there had continued unabated for 16 years. If it were true - as the President of France, Mr. Mitterand, had asserted the previous year - that human rights were indivisible, it was difficult to explain the discrepancies between the international community's approach to the Iraqi invasion of Kuwait and its attitude to the situations in East Timor, Western Sahara and all the lands inhabited by the Kurds.

74. Mr. BENHIMA (Morocco), speaking in exercise of the right of reply, said that while his delegation welcomed the participation of the France-Libertés organization in the Commission's current session, the references made by the representative of that organization to the situation in Western Sahara indicated a lack of objectivity tantamount to an attempt to mislead world opinion.

75. In particular, it had been categorically asserted that Morocco had accepted the census organized by Spain in 1974 as the sole basis for drawing up the electoral registers. That assertion was wholly incorrect, since no

proper referendum could be held unless all persons genuinely originating in the Sahara were entitled to participate. It would be a great injustice to dispute that right in the case of the thousands who had fled from the Sahara and found refuge in northern Morocco during the foreign military occupation.

76. Contrary to the assertions by France-Libertés, the Moroccan authorities had cooperated fully with the United Nations mission and no obstacle to, or delay in, implementation of the peace plan could be attributed to his Government, which had urged respect for both the letter and spirit of the agreement and the timetable for its implementation. However, as the Secretary-General's Special Representative, Mr. Manz, had himself acknowledged, the United Nations had not taken fully into account the difficulties involved in holding such a referendum.

77. France-Libertés had also accused Morocco of transferring 40,000 people from northern Morocco to the Saharan provinces. He would like to know the source of that information, since quite different figures had been given by another non-governmental organization, the International Federation - Terre des Hommes. Such shameless juggling with figures was intended merely to prevent Morocco from finally achieving its territorial integrity.

78. His delegation reserved the right to comment on the subject of other hostile allegations against Morocco on a later occasion.

79. Ms. RADIC (Yugoslavia), speaking in exercise of the right of reply, said that there was no justification for referring to the Albanian minority in the Republic of Serbia as being subject to colonial domination or foreign occupation. Elements of the Albanian population in Yugoslavia lived in territories which had never belonged to any other State and which constituted the cradle of Serbian statehood and civilization.

80. If the right to self-determination were to be interpreted as the right of every citizen of a given country to participate in political life and to enjoy the rights recognized in international instruments, it should be made clear that all members of the Albanian minority and other minorities in Serbia who had reached the age of 18 years had the right to vote, to elect and to be elected as representatives of a political party, and that they were entitled to education provided by the Government without charge and to free medical and social security. Their rights and duties did not differ in any way from those of other citizens of Serbia.

81. She would refrain from further comment on unfounded allegations on that issue made repeatedly in the Commission over the years by one non-governmental organization, namely, the International League for the Rights and Liberation of Peoples, which her delegation had consistently refuted.

82. Mr. CHAKRAVARTI (India), speaking in exercise of the right of reply, said that he wished to clarify a misleading comment made by the representative of one non-governmental organization on his Government's position with regard to the State of Jammu and Kashmir. The people of that State, which was an integral part of India, enjoyed all civil and human rights, despite the disruptive activities of terrorists, and his Government had a consistent record of safeguarding the rights of minorities.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (E/CN.4/1992/8; E/CN.4/1991/10; A/46/401)

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (E/CN.4/Sub.2/1991/13 and Add.1)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 14) (E/CN.4/1992/39 and 42 and Add.1; E/1991/39; A/C.3/46/2)

83. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda items 5, 6, and 14, said that one of the most important milestones on the road to the prevention of discrimination had been the inclusion in the United Nations Charter of provisions relating to the promotion of human rights and fundamental freedoms for all without "distinction as to race, sex, language or religion". Throughout the Charter, references to human rights were coupled with calls for their equal enjoyment or with prohibitions of discrimination.

84. The Charter's affirmations of equal enjoyment of human rights and its rejection of discrimination had been taken further by the Universal Declaration of Human Rights, which was based on the fundamental principle that all members of the human community were equal in dignity and rights. Everyone was entitled to the rights proclaimed by the Declaration "without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

85. Over the years, the United Nations system had focused its attention on drafting international standards against discrimination and had adopted such documents as the International Convention on the Elimination of All Forms of Racial Discrimination, the ILO Discrimination (Employment and Occupation) Convention, the ILO Equal Remuneration Convention and the UNESCO Convention against Discrimination in Education. Non-discrimination was also an integral part of all general human rights instruments, from the International Covenants on Human Rights to the recently adopted Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

86. Apartheid was the most extreme and dangerous form of racial discrimination devised by man and the United Nations and the international community had brought increasing pressure to bear on that system from the very beginning. Apartheid used laws and the judicial system to deny systematically to the majority of the population of South Africa the most elemental human rights inherent in human dignity. With great courage, the people of South Africa had demonstrated their inherent dignity through their continuous struggle against the system and the fruits of that struggle were being witnessed in the changes currently taking place in that country.

87. The human rights aspects of apartheid had come under close scrutiny in 1968, with the setting up by the Commission on Human Rights of the Ad Hoc Working Group of Experts on southern Africa. The Working Group dealt with a

long list of violations of human rights connected with apartheid and was currently paying particular attention to the detention, torture and other inhuman treatment of children in South Africa.

88. During the early 1970s, it had become clear that a careful review was needed of external assistance to South Africa, which made the continuation of apartheid possible. Thus, in 1973, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had found it necessary to evaluate the adverse consequences for the enjoyment of human rights of assistance to the colonial and racist regime in southern Africa. Since that time, the question had been regularly considered by the Sub-Commission, the Commission on Human Rights and the General Assembly.

89. In the early 1970s also, the international community had decided to mobilize wide-ranging efforts against racism and racial discrimination all over the world. The period 1973-1983 had thus been declared the United Nations Decade for Action to Combat Racism and Racial Discrimination, while the period 1983-1993 had been proclaimed the Second Decade to Combat Racism and Racial Discrimination. The basic objectives of the Second Decade were: to promote human rights and fundamental freedoms for all without distinction as to race, colour, descent or national or ethnic origin; to eliminate prejudice and racial discrimination; and to abolish regimes and policies based on racism.

90. The activities under the programme for the Decade included action against apartheid, education, the dissemination of information, protection of minorities, migrant workers and indigenous populations, the implementation of international conventions, and action through national legislation, institutions and recourse procedures.

91. Over the past several years, the international community had become increasingly aware of disturbing new expressions of racism against migrant workers, refugees and asylum seekers, minorities, indigenous populations and groups such as gypsies. He was particularly alarmed at the rise of anti-Semitism and the increase in racially motivated violence against individuals and groups. Many of the issues of importance to a serious study of new forms of racism had been covered in the Seminar on Political, Historical, Economic, Social and Cultural Factors Contributing to Racism, Racial Discrimination and Apartheid, which had been organized by the Centre for Human Rights in Geneva in December 1990.

92. It was vitally important to come to grips with those new forms of racism since racial tensions could lead to violence in societies, marginalized significant sectors of the population and brought to a halt much needed social and economic progress. Racism and racial discrimination could also lead to tensions between States and inter-State conflicts. Most fundamentally, however, racism and racial discrimination were serious violations of the basic rights of the human person. The suffering, misery, and destruction caused by racism and racial discrimination were written large on almost every page of human history and human dignity required concerted and effective efforts to put an end to those phenomena. The Commission might wish to consider ways of effectively dealing with the issue at the national and international levels, including the vehicle of the proposed Third Decade.

93. At the national level, two essential steps must be taken in the fight against discrimination. First, the law must make discrimination illegal and the law must be enforced, since failure by the authorities to take decisive action could legitimize discrimination and violence in the eyes of some people, thus leading to its extension. Secondly, efforts must be made to ensure equal opportunities for all in society since, taken together, non-discrimination and equal opportunity could be the basis for progress in eliminating racial discrimination.

94. Other important elements included measures to redress inequalities resulting from past discrimination, and the appointment of a national ombudsman against discrimination, where appropriate. Such an ombudsman could provide advice and support to individual victims, take initiatives to raise public awareness and advise Governments on needed measures.

95. Finally, in order to underline the moral unacceptability of racism and racial discrimination, a solemn undertaking against discrimination should be made by national leaders and institutions from all areas of society. Such an undertaking could be the foundation of a conscious effort by the community not to tolerate discrimination or prejudice and to combat and remove such manifestations from the national life.

96. The Commission's work on the three items currently before it should be placed squarely within the context of article 1 of the Universal Declaration, which stated that: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". The task before the Commission was to find ways of giving expression to those profound words in its fight against racism and racial discrimination in the contemporary world.

97. Mr. ERMACORA (Vice-Chairman, of the Ad Hoc Working Group of Experts on southern Africa), introducing the interim report of the Ad Hoc Working Group (E/CN.4/1992/8), said that the Group had taken careful note of the changes introduced by the Government of South Africa during 1991. It was particularly encouraged by the abolition of the Land Acts, the Group Areas Act and the Population Registration Act. The abolition of those pillars of apartheid would go a long way to launch the process of dismantling the system of apartheid.

98. Those steps, however, represented only a beginning, since a whole codex of apartheid laws remained on the statute books. The Working Group earnestly hoped that the Government of South Africa would abolish the remaining statutes at the beginning of the parliamentary sessions in 1992. The notorious Internal Security Act, for example, though selectively amended, had not been repealed.

99. The Working Group was particularly concerned about the far from satisfactory situation in the so-called "homelands", which were, in fact, part of South Africa. The Government of South Africa had a responsibility to bring about changes there in line with the rest of the country and, in that regard, the State of Emergency declared in Ciskei was not in keeping with the spirit

of the changes initiated by President De Klerk. According to information received, more than 350 people had been detained during the Emergency and were released only when it was lifted on 17 November 1991.

100. The question of continuing violence remained a serious concern for the Ad Hoc Working Group. In that context, the provisions of the Peace Accord signed by the parties involved could become an important mechanism to contain the violence. The success of that Accord depended entirely on its effective implementation, which the Working Group would follow up with particular interest.

101. After prolonged negotiations, the Government of South Africa and the United Nations High Commissioner for Refugees had signed agreements to regulate the procedure for the return of exiled South Africans, a process that was well under way and which was expected to involve up to 40,000 people. The Working Group noted, with some concern, that the Government of South Africa had failed to agree to a general amnesty. Under the established procedure, returnees alleged to have committed serious common-law crimes were not granted indemnity. Under the repatriation agreement, it would appear that, if the Government offered indemnity on one charge, then the charges for which no indemnity was offered should be communicated to the United Nations High Commissioner for Refugees. That clause was designed to protect exiles from being arrested on their return and the Working Group hoped that it would be scrupulously respected.

102. The Convention for a Democratic South Africa (CODESA), convened on 20-21 December 1991, had brought together many important segments of the South African population with a view to forming a negotiating forum for a new system. The question of an interim Government and a constituent assembly also continued to be discussed. Meanwhile, however, infringements of the right to life continued in South Africa. According to information received, during the period June 1990 to June 1991, 200 persons had been killed as a result of action by the security forces and 34 deaths had been attributed to hit squads.

103. Every year since its inception, the Ad Hoc Working Group of Experts had requested the Government of South Africa to authorize a visit to the country, without receiving any such invitation. The Working Group continued to hope that, in keeping with the recent initiatives adopted in South Africa, a visit to the country would be made possible by its Government during 1992.

104. Mrs. SILVA Y SILVA (Peru) said that her delegation welcomed the positive changes that had taken place in South Africa since 1990 and the recent publicly stated commitment of the State President, F.W. De Klerk, to a democracy that was accessible to all South Africans irrespective of race.

105. Until quite recently, a system of racial segregation existed in South Africa that was institutionalized by a Constitution that denied fundamental human rights to an overwhelming majority of the population. South Africa, at that time, had shown no intention of changing the apartheid regime. One political sector in South Africa had finally understood, however, that that policy had been a failure and had led the country to international isolation and condemnation engendering only hatred, antagonism and death. While apartheid had not been totally abolished, her delegation was convinced

that the Government of President De Klerk, together with the African National Congress, the entire South African people and the support of the international community, would achieve that goal.

106. She wished to thank the Ad Hoc Working Group of Experts for its interim report (E/CN.4/1992/8) and hoped that the South African Government would provide all the necessary assistance to permit the Working Group to verify in situ the progress made towards dismantling the apartheid regime.

107. Ms. GRANGE (Amnesty International) said that South Africa appeared to have ended 1991 on a hopeful note when the Government committed itself to a declaration of intent on non-racial democratic constitutional principles and political equality at the Convention for a Democratic South Africa (CODESA). During the year, the Government had continued to dismantle the legal framework of apartheid and to reduce the scope of certain security laws which had facilitated widespread human rights violations. The number of detentions continued to decline in 1991, with most of the 800 detentions occurring in the nominally independent "homelands" of Bophuthatswana and the Ciskei. Only two of the many prisoners sentenced to death had been executed, although at least 450 people remained under sentence of death in South Africa, including the "homelands".

108. In dramatic contrast to those hopeful developments were the widespread reports of extrajudicial executions, attempted assassinations, torture and deaths in custody, as well as the palpably high level of fear among township residents in the face of the violence and apparent complicity or indifference of the police force. More than 2,000 people had been killed in 1991 and many others injured, made homeless, or forced into hiding to avoid assassination. The victims were mainly members of or sympathizers with the African National Congress (ANC) and other formerly banned organizations, trade unionists, and people of unknown affiliation who were victims of random terror on commuter trains.

109. In 1991, the police had failed overall to protect township residents against attacks by large groups of heavily armed men who moved about the townships or on commuter trains with apparent impunity. They had also failed to investigate properly, or in some cases to conduct any kind of investigation, after killings and other incidents. The killers were, accordingly, rarely arrested or prosecuted.

110. In view of the unresponsiveness of the authorities, human rights activists and community representatives had begun to address their grievances to a multiparty-created judicial commission of inquiry, set up in the wake of the signing of the Peace Accord in September 1991. The activities of that Commission, however, did not relieve the Government of its urgent obligation to ensure that the security forces and criminal justice system worked for the benefit of everyone.

111. While much of the political violence appeared to result from conflict between the ANC and the Inkatha Freedom Party (IFP), Amnesty International was concerned that the police and military were directly responsible for some of the killings or, at the very least, indirectly responsible by colluding with the IFP.

112. State President F.W. De Klerk had emphatically denied that the police or the Defence Force were involved in the instigation, promotion or permission of violence. During 1991, however, newspapers had published secret documents showing that the security police had for some years been funding certain activities of the IFP. Moreover, there was overwhelming evidence that the policy of security force bias towards Inkatha and against the ANC and allied organizations had resulted in killings and other human rights violations.

113. During large-scale attacks by armed IFP supporters on pro-ANC communities, the police and military frequently failed to intervene to protect victims when they had the capacity to do so. A case in point was the attack on 12 May 1991 by some 1,000 IFP supporters on the Swannieville squatter camp, west of Johannesburg, in which 29 people had been killed. Eyewitnesses had stated that policemen in uniform and white men in plain clothes had taken an active part in the attack, after which they had escorted the still-armed attackers back to their base.

114. Police complicity in political killings had not been limited to incidents involving the IFP. Eyewitnesses had also identified policemen among attackers who raided the homes of ANC supporters in the Khayelitsha township near Cape Town between July and September 1991, killing at least 15 people, injuring hundreds and leaving hundreds homeless. The conflict had ostensibly been between two rival taxi companies, but the police, as well as unidentified white men in plain clothes, had been heavily implicated in one side of the conflict and had conducted brutal raids on the homes of ANC supporters.

115. Despite the public commitment of the President of South Africa to investigate vigorously all allegations of unlawful activity by the security forces, Amnesty International continued to receive numerous reports of security force involvement in torture, extrajudicial executions and other human rights violations which resulted in neither the suspension of the security force members implicated nor their prosecution. In one of the rare cases in which an official investigation had led to police being suspended and prosecuted, the human rights activists and witnesses who had made statements against the police had been harassed, falsely charged in court, threatened with death, and in one instance shot and wounded by a suspended police officer.

116. Such a situation could not but discourage victims of human rights violations from coming forward and cooperating with official investigations. Unless and until the Government took adequate steps to demonstrate publicly and unequivocally that all members of the security forces who were involved, directly or indirectly, in torture, extrajudicial executions and other human rights violations would be brought to justice, the current climate of fear, frustration and loss of life would continue.

The meeting rose at 12.55 p.m.